

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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|----------------------------|---|--------------------|
| UNITED STATES OF AMERICA, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | No. 3:09-CV-1311-O |
| | § | |
| BERNARD J. DOLENZ, ET AL., | § | |
| | § | |
| Defendants. | § | |

UNITED STATES' MOTION FOR DISTRIBUTION OF SALES PROCEEDS

The United States of America (United States) requests an order of this Court distributing the sales proceeds of the real property located at 6102 Swiss Avenue, Dallas, Texas (Swiss Avenue Property).

1. The United States' Complaint in this action sought the foreclosure of the associated federal restitution lien against Bernard J. Dolenz (Dolenz) and to have the Swiss Avenue Property sold for application of an appropriate portion of the net sales proceeds to Dolenz's unpaid federal restitution.

2. On September 15, 2011, the Court granted the United States' Motion for Summary Judgment establishing lien priority and providing for the foreclosure of the federal liens against the Swiss Avenue Property. On October 5, 2011, the Court appointed Carriejean Prince of Ebby Halliday as the Receiver to take possession and arrange for the sale of the Swiss Avenue Property. The Receiver then took custody of the

property and arranged for its sale.

3. On February 2, 2012, this Court issued an Order Granting United States' Emergency Motion for Confirmation of Sale of the Swiss Avenue Property to Ivette Lozano (Buyer) for \$550,000.00.

4. A closing is set to occur on or before February 20, 2012, at Stewart Title Company at which time Carriejean Prince will issue a receiver's deed transferring the Swiss Avenue Property to the Buyer. The Final Closing Statement is attached at Pl.'s App. Tab A, and the United States requests that the distributions set forth on the Final Closing Statement be approved.

5. The United States approved the expenses, commissions, and closing costs listed on the Final Closing Statement, and such expenses, commissions, and closing costs are reasonable and customary in the use of a receiver to sell real property. A substantial portion of the sales proceeds will be used to pay delinquent property taxes from 2004 through the present as well as to reimburse the United States Marshals Service for expenses they incurred for the disposal of hazardous wastes and other personal property remaining at the Swiss Avenue Property after Dolenz vacated the premises.

6. The sales proceeds from the sale of the Swiss Avenue Property should be distributed for the payment of closing costs, local real estate taxes and fees, the Receiver's and buyer's realtor's commission and expenses, and the United States Marshals Service's expenses as set forth in the Final Closing Statement.

7. The remaining sales proceeds set forth in the Final Closing Statement

should be distributed to the United States for application to the unpaid restitution debt of Dolenz in case number 3:98-CR-107 (01), in the United States District Court for the Northern District of Texas. The United States further requests that any variation of local real estate taxes and fees, Receiver's or United States Marshals Service's expenses, or other costs from the Final Closing Statement be added to or taken from the United States' sales proceeds upon the United States' approval.

WHEREFORE, the United States of America requests an order of this Court distributing the proceeds of the sale of the Swiss Avenue Property in the form associated with this motion and its accompanying exhibit.

Respectfully submitted,

SARAH R. SALDAÑA
UNITED STATES ATTORNEY

s/ Megan J. Fahey
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CERTIFICATE OF CONFERENCE

I hereby certify that I attempted to confer with Steven Griggs, counsel for the Swiss Avenue House Trust, and Bernard Dolenz, Defendant, via telephone conferences on February 17, 2012, but they were unavailable. As of the filing of this motion, my voicemail messages have not been returned.

s/ Megan J. Fahey
Megan J. Fahey
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of February, 2012, a copy of the United States' Motion for Distribution of Sales Proceeds has been served via court enabled electronic filing or First Class United States mail on the following:

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s/ Megan J. Fahey
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